

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
EASTERN DIVISION

MERLE PRICE,

Plaintiff,

vs.

BWC EXCAVATING L.C.,

Defendant.

NO. 3:10-cv-153

JOHNSON COUNTY NO. LACV072673

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1441, 1446 and Local Rule 81(a), Defendant BWC Excavating L.C. ("BWC"), petitions for removal of this action from the Iowa District Court for Johnson County, Iowa, to the United States District Court for the Southern District of Iowa, Eastern Division. In support of the removal of this action, BWC states the following:

1. Plaintiff filed a Petition at Law in the Iowa District Court for Johnson County on November 4, 2010.
2. This Notice of Removal is filed within 30 days after receipt by BWC of Plaintiff's petition and original notice, in compliance with 28 U.S.C. §1446(b).
3. Pursuant to 28 U.S.C. §1446(a) and Local Rule 81(a), a copy of all pleadings, process, orders and other papers filed in the state court action are attached as Exhibit A.
4. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction over "all civil actions arising under the Constitution, laws, or treaties of the United States." Because Plaintiff's petition states a claim under the federal Americans with Disabilities

Act, 42 U.S.C. § 12111 et seq., a civil action arising under the laws of the United States, this Court has original jurisdiction over this case.

5. Additionally, this Court may exercise supplemental jurisdiction over the related pendent state law claims pursuant to 28 U.S.C. § 1367(a).

6. Pursuant to 28 U.S.C. §1446(d), BWC is contemporaneously filing a copy of this notice of removal with the clerk of the Iowa District Court for Johnson County and is serving this notice on Plaintiff's counsel electronically and by U.S. mail.

7. BWC is contemporaneously filing a Local Rule 81 (a) statement.

WHEREFORE BWC requests that the above-entitled action be removed from the Iowa District Court for Johnson County, to the United States District Court for the Southern District of Iowa, Eastern Division.

/s/Wilford H. Stone
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that I served the foregoing document upon the following person(s) electronically and by U.S. mail on the 3rd day of December, 2010.

Matt J. Reilly
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/s/Wilford H. Stone